

**FILED**

**JAN 04 2017**

Clerk, U.S. District Court  
District Of Montana  
Missoula

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

GEORGE HEATH,

Plaintiff,

vs.

DOCTOR KOHUT, P.A. MARK  
HENDERSON, and INFIRMARY  
DIRECTOR CATHY REDFERN,

Defendants.

CV 14-00042-H-DLC-JTJ

**ORDER**

Plaintiff George Heath, a prisoner proceeding without counsel, sent a letter to the Clerk of Court dated November 29, 2016 requesting a voluntary dismissal without prejudice. (Doc. 34.) The letter has been construed as a motion for voluntary dismissal brought pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.

As this matter has been served upon Defendants and Defendants have filed a motion for summary judgment, this case may only be dismissed by court order, on terms that the court considers proper. Fed. R. Civ. P. 41(a). Defendants did not oppose Mr. Heath's motion. Therefore, the motion to dismiss will be granted.

Based upon the foregoing, the Court issues the following:

**ORDER**

1. Mr. Heath's November 29, 2016 letter to the Clerk of Court as construed as a motion for voluntary dismissal is granted and this matter is dismissed without prejudice.
2. The Clerk of Court is directed to terminate all pending motions and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.
3. The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

DATED this 4<sup>th</sup> day of January, 2017.



Dana L. Christensen  
Dana L. Christensen, Chief Judge  
United States District Court